

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**

**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

No. 23-1165

PROBABLE CAUSE ORDER

**BRYAN J. BLEHM
Bar No. 023891**

Respondent.

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona (“Committee”) reviewed this matter on December 8, 2023, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar’s Report of Investigation and Recommendation and Respondent’s Response.

By a vote of 7-0-2¹, the Committee finds probable cause exists to file a complaint against Respondent in File No. 23-1165.

IT IS THEREFORE ORDERED pursuant to Rule 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 11 day of December, 2023.



Judge (ret.) Lawrence F. Winthrop,
Chair, Attorney Discipline Probable Cause Committee of the Supreme Court

¹ Committee member Judge Cynthia Bailey and Brent Vermeer did not participate in this matter.

Original filed this 11th day
of December, 2023, with:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266

Copy emailed this 11th day
of December, 2023, to:

Bryan J. Blehm
Blehm Law, PLLC
10869 N. Scottsdale Rd., Ste. 103256
Scottsdale, AZ 85254-5280
Email: bryan@blehmlegal.com
Respondent

Copy emailed this 11th day
of December, 2023, to:

Attorney Discipline Probable Cause Committee
Of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th St., Suite 100
Phoenix, Arizona 85016-6266
E-mail: LRO@staff.azbar.org

By: /s/Melissa Quintana
HFP/KAG/mq



Assistant's Direct Line: (602) 340-7386

Sent via email only: bryan@blehmlegal.com

December 11, 2023

PERSONAL AND CONFIDENTIAL

Bryan J. Blehm
Blehm Law, PLLC
10869 N. Scottsdale Rd., Ste. 103256
Scottsdale, AZ 85254-5280

Re: File No: 23-1165
Complainant: State Bar of Arizona

Dear Mr. Blehm:

The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona has entered, in the above-referenced matter, the enclosed Probable Cause Order.

Before a formal complaint is filed and litigation commenced, this matter may be resolved by an agreement for discipline by consent. Rule 57, Ariz. R. Sup. Ct., allows a Respondent to tender conditional admissions to a charge in exchange for a stated form of discipline. An agreement for discipline by consent saves time and costs and provides an opportunity for you to participate in developing a formal statement of the case for the record.

To prevent unnecessary delay, I plan on continuing to prepare our file for adjudication. In the meantime, if you wish to speak to me about possible settlement, or wish to discuss the case further, please feel free to contact me at (602) 340-7386. I welcome the opportunity to further discuss this matter with you.

I understand that you are, at this point, unrepresented. This letter is not intended to provide legal advice. If you have any questions about the process, I urge you to seek counsel.

Thank you again for your assistance in this matter and I look forward to speaking with you in the near future.

Sincerely,

/s/Hunter F. Perlmeter

Hunter F. Perlmeter
Bar Counsel

/s/Kelly A. Goldstein

Kelly A. Goldstein
Bar Counsel

HFP/mq

Enclosure

Sandra Montoya

From: Melissa Quintana
Sent: Monday, December 11, 2023 4:06 PM
To: 'bryan@blehmlegal.com'
Subject: State Bar File No. 23-1165 - Blehm
Attachments: Letter to R Transmitting ADPCC Order.pdf; 23-1165 Blehm - Order of Probable Cause.pdf

Dear Mr. Blehm,

Attached is a letter from Bar Counsel Hunter F. Perlmeter and Kelly A. Goldstein, regarding the above-referenced matter. Also attached is a copy of the Probable Cause Order.

Thank you,



Melissa Quintana, Legal Secretary

State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7386 **F :** 602.416.7586

EMAIL: Melissa.Quintana@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.

Sandra Montoya

From: Melissa Quintana
Sent: Wednesday, October 18, 2023 3:06 PM
To: 'bryan@blehmlegal.com'
Subject: State Bar File Nos. 23-1165 & 23-1985 - Blehm
Attachments: Letter to R Transmitting ROI.pdf; ROIs for 23-1165, 23-1985 (Final).pdf

Dear Mr. Blehm,

Attached please find a Letter to you from Bar Counsel Kelly A. Goldstein and Hunter F. Perlmeter.

Thank you,



Melissa Quintana, Legal Secretary

State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7386 **F :** 602.416.7586

EMAIL: Melissa.Quintana@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.



Assistant's Direct Line: (602) 340-7386

Sent via email only: bryan@blehmlegal.com

October 18, 2023

PERSONAL AND CONFIDENTIAL

Bryan J. Blehm
Blehm Law, PLLC
10869 N. Scottsdale Rd., Ste. 103256
Scottsdale, AZ 85254-5280

Re: File Nos: 23-1165 and 23-1985
Complainant: State Bar of Arizona

Dear Mr. Blehm:

We have completed our investigation into the matters listed above. Attached is the investigative report that we intend to submit to the Attorney Discipline Probable Cause Committee ("ADPCC"). As you can see, we recommend an Order of Probable Cause. ADPCC will consider this report at its next available agenda.

You have until **November 6, 2023 at 3:00 p.m.**, if you wish to submit a written summary of your response to the charge to persuade the ADPCC the recommended disposition is not warranted or to record your agreement with the recommended disposition. We will send such a submittal to ADPCC with the report of investigation. If you wish to submit such a statement, please mail or deliver it to my attention, but addressed to Members of the Attorney Discipline Probable Cause Committee. A letter format is satisfactory, and I must receive it by the date listed above. We may not extend this time period unless you establish substantial good cause, in writing to me. Thank you for your cooperation.

If the ADPCC imposes a sanction, you will also be charged costs pursuant to Rule 60(d), Ariz. R. Sup. Ct. The Supreme Court of Arizona's schedule of costs is online at <https://www.azbar.org/media/fy2ahbcl/fee-schedule.pdf>.

Sincerely,

/s/Kelly A. Goldstein

Kelly A. Goldstein
Bar Counsel

/s/Hunter F. Perlmeter

Hunter F. Perlmeter
Bar Counsel

KAG/mq

Enclosure

Sandra Montoya

From: Melissa Quintana
Sent: Thursday, June 15, 2023 1:11 PM
To: 'bryan@blehmlegal.com'
Subject: State Bar File No. 23-1165 - Blehm
Attachments: Letter to R Response Received.pdf

Dear Mr. Blehm,

Attached please find a Letter to you from Bar Counsel Hunter F. Perlmeter and Kelly A. Goldstein.

Thank you,



Melissa Quintana, Legal Secretary

State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7386 **F :** 602.416.7586

EMAIL: Melissa.Quintana@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.



Assistant's Direct Line: (602) 340-7386

Via Email Only: bryan@blehmlegal.com

June 15, 2023

PERSONAL AND CONFIDENTIAL

Bryan J. Blehm
Blehm Law, PLLC
10869 N Scottsdale Rd., Ste. 103256
Scottsdale, AZ 85254-5280

Re: File No: 23-1165
Complainant: State Bar of Arizona

Dear Mr. Blehm:

This acknowledges receipt of your correspondence dated June 14, 2023, in which you respond to the charges of the State Bar of Arizona. An investigator or I may contact you for more information or to schedule an interview.

After our investigation is completed, this matter may be dismissed by bar counsel or a recommendation for discipline or diversion made to the Attorney Discipline Probable Cause Committee. You will be advised of the recommendation and provided an opportunity for input.

Sincerely,

/s/Hunter F. Perlmeter

Hunter F. Perlmeter
Bar Counsel

HFP/mq

/s/Kelly A. Goldstein

Kelly A. Goldstein
Bar Counsel

KAG/mq

Sandra Montoya

From: Donato Zavala
Sent: Wednesday, June 14, 2023 3:57 PM
To: Hunter F. Perlmeter
Cc: Melissa Quintana
Subject: FW: Arizona State Bar No.23-1165 - Blehm
Attachments: Blehm Response to Investigation 23-1165.pdf; 2023-06-14 File No. 23-1165 Exs. A - K.pdf

From: Bryan Blehm <bryan@blehmlegal.com>
Sent: Wednesday, June 14, 2023 3:36 PM
To: Donato Zavala <Donato.Zavala@staff.azbar.org>
Cc: Jennifer Smith <Jennifer.Smith@staff.azbar.org>
Subject: Re: Arizona State Bar No.23-1165 - Blehm

All,

Attached is my response to Matter Number 23-1165. Please let me know if you require anything additional.

Bryan James Blehm
Blehm Law PLLC
10869 N. Scottsdale Rd., #103-256
Scottsdale, AZ 85254
602-753-6213

On Fri, May 5, 2023 at 3:20 PM Donato Zavala <Donato.Zavala@staff.azbar.org> wrote:

Good Afternoon,

Attached is a letter from Senior Bar Counsel Hunter Perlmeter and Staff Bar Counsel Kelly Goldstein regarding the above-referenced matter.

Thank You,



Donato Zavala, Legal Secretary

State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7278 **F** : 6024167478

EMAIL: Donato.Zavala@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.

Beware External Email - Think Before You Act

Links and attachments should not be opened unless expected or verified

Blehm Law PLLC

Bryan James Blehm

June 14, 2023

VIA EMAIL ONLY

Mr. Hunter F. Perlmeter
Ms. Kelly A. Goldstein
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266

Re: File No. 23-1165

Dear Mr. Perlmeter and Ms. Goldstein:

This letter responds to your letter to me dated May 5, 2023, regarding the screening investigation and bar charge in the above-referenced matter. As requested, I address in detail “the alleged 35,563 unaccounted for ballots, and the evidence that[I] contend supports that calculation,” and I show that neither I nor my colleague Kurt Olsen violated any ethical rules, including Ariz. R. Sup. Ct. 42, ER 3.1, ER 3.3(a), ER 8.4(c), and ER 8.4(d).

Introduction

I have been a member of the Arizona Bar since 2005 and a member of the State Bar of Nevada since 2006. I am also authorized to practice before the U.S. District Courts in the Districts of Arizona and Nevada as well as the 9th Circuit Court of Appeals. During my tenure as an attorney, I have never been sanctioned.

Throughout my adult life, I have strived to live a life of integrity, and I hold truth and honesty as my guide stones. I have also proudly and honorably served my nation and local communities wherever I happen to reside. Presently, this includes doing work on behalf of the Modest Means Project and other low-income charities as well as a substantial amount of pro bono work on behalf of election integrity groups seeking to rectify election related issues of which there are many.

It should also be noted that Defendants moved for sanctions at the conclusion of each trial in this matter and, each time the trial court denied Defendants’ motions, rejecting the arguments that we misrepresented facts and lacked a good faith basis for the claims and statements made in this election contest.¹

¹ The Defendants are: Contestee/Governor Katie Hobbs (“Hobbs”), the Secretary of State, Adrian Fontes (“Fontes”), and Maricopa County (“Maricopa”).

As a note to you and your team, this response is largely the same as that submitted by Mr. Olsen. Though he is lead counsel and I local, this is the only logical approach to the two identical bar charges as we litigated this matter together and every brief, regardless of who authored it, was reviewed in its entirety, approved, signed, and filed by me.

Summary of Argument

The Arizona Supreme Court’s order dated May 4, 2023, imposed a \$2,000 sanction against us “as to the statement in Lake’s Petition for Review asserting ‘the undisputed fact that 35,563 unaccounted for ballots were added to the total number of ballots,’ and for repeating such false assertions in an additional filing in this proceeding.” Order at 6 (emphasis in original). The Court also stated that “[a]lthough Lake may have permissibly argued that an inference could be made that some ballots were added, there is no evidence that 35,563 ballots were and, more to the point here, this was certainly disputed by the Respondents. The representation that this was an “undisputed fact” is therefore unequivocally false.” *Id.* at 5.

I respectfully contend that the Court was mistaken in its conclusion that there was “no evidence that 35,563 ballots” were added into the election process as well as that this issue was “disputed” by the Defendants. First, prior filing the Petition for Review, no Defendant questioned the method by which the claim that 35,563 early ballots received on Election Day were added at Maricopa’s third party ballot processing facility, Runbeck Election Services, Inc. (“Runbeck”) was derived.

The specific issue of the 35,563 unaccounted for ballots first arose in connection with an argument Defendant Hobbs raised in her answering brief in the Court of Appeals. In that brief, Hobbs cited two defense trial exhibits, comprised as a compilation of receipts listing the number of ballots, as evidencing Maricopa’s compliance with mandatory chain of custody procedures, and that Maricopa would thus know if any ballots were inserted or removed in the election process. Lake’s legal team — which includes individuals with knowledge of Maricopa’s chain of custody procedures and forms, including the two exhibits at issue and other various chain of custody forms used in the November 2022 general election produced pursuant to public records requests which were — compared those two exhibits and confirmed a 35,563 ballot discrepancy. In Lake’s reply brief at the Court of Appeals, we noted this unexplained 35,563 ballot discrepancy between the two defense exhibits with respect to: (i) the number of Election Day early ballots listed as having been received by Runbeck from Maricopa; and (ii) the number of Election

Day early ballots subsequently reported by Runbeck as actually having been scanned.

Notably, this discrepancy was not characterized as “undisputed” in Lake’s reply brief at the Court of Appeals, however, that characterization would have been appropriate for the reasons stated herein. None of the Defendants disputed this issue in the Court of Appeals either by: (i) requesting oral argument after Lake filed her reply brief, as clearly was their right under ARCAP 18(a); or (ii) seeking leave to file a sur-reply.

We first made the statement that this issue was “undisputed” in one of the issues presented for review in Lake’s Petition for Review (the “Petition”) in the Arizona Supreme Court. In response to Lake’s Petition, Defendants made demonstrably incorrect arguments, but avoided challenging the assertion that a straightforward mathematical calculation based on the two defense trial exhibits Hobbs cited showed the discrepancy of 35,563 ballots. Since Hobbs already cited these two defense exhibits as proof that Maricopa had followed required ballot chain of custody procedures and would know if any ballots were inserted, the discrepancy could only be disputed by challenging the mathematical calculation or by showing that a receipt was not for Election Day early ballots.

Paradoxically, the only basis for disputing my assertion was an argument made later by Fontes and Maricopa, discussed below, that one of the receipts should not have been included in the calculation. But removing that receipt made the *discrepancy far larger* than 35,563 ballots, and as was stated in briefing to the Arizona Supreme Court, that single receipt was deliberately included *to be conservative* in calculating the discrepancy. That argument could not possibly justify the Court’s conclusion that our assertion was false because the number claimed was far lower (and thus less favorable to the client) than the number that the Fontes and Maricopa argument assumed.

In sum, every argument made by Defendants in briefing submitted to the Arizona Supreme Court was addressed, including demonstrating how Defendants’ arguments never actually “disputed” the 35,563 ballot discrepancy or Maricopa’s resulting ballot chain of custody failure, as well as how Fontes’ and Maricopa’s argument made the discrepancy even larger. This argument was prevented on behalf of our client in good faith and I continue to believe it is meritorious. *See* ER 3.1. At no time did I knowingly or intentionally make any false statements of material fact to the Court or seek to mislead the Court in any way. *See* ER 3.3(a) and ER 8.4(c), (d).

Argument

I. The Discrepancy of 35,563 Ballots Was Derived from a Simple, Straightforward Arithmetical Calculation Using Numbers Taken from Two Defense Trial Exhibits which Hobbs Argued Showed Maricopa Complied with Ballot Chain of Custody Requirements.

The 35,563 ballot discrepancy was identified while examining Governor Hobbs’ assertion in her Answering Brief that Maricopa had followed ballot chain of custody requirements during the 2022 general election, stating:²

Through this process, Maricopa *‘maintain[s] chain of custody for every one of those early ballots all the way through the process[,]’ such that the County would be aware of any ballot ‘inserted or rejected or lost’ in any part of the process.*³

Hobbs based the “process” she referred to above on the testimony of Maricopa Director of Elections Scott Jarrett and two chain of custody forms completed at Runbeck Election Services, Inc. (“Runbeck”):

- Defense trial **Exhibit 82** entitled “MC Inbound—Receipt of Delivery” (Hobbs.Appx:89-131, hereinafter “**Runbeck Receipts of Delivery**”), and
- Defense trial **Exhibit 33** entitled “MC Incoming Scan Receipt” (Hobbs.Appx:132-61, hereinafter “**Runbeck Scan Receipts**”).

Defense trial **Exhibit 33** is comprised of all Runbeck Scan Receipts for early ballots Runbeck received on Election Day and post-Election Day late ballots. Defense trial **Exhibit 82** reflects all Runbeck Receipts of Delivery from October 13, 2022 through Election Day. The Runbeck Receipts of Delivery were completed at Runbeck when ballot envelopes containing the ballots were delivered there by Maricopa and counted based on the number of trays received at 350 ballots per tray.⁴

² See Hobbs Answering Brief and Opposition to Special Action Petition filed January 17, 2023 (“Hobbs Answering Br.”), attached as **Ex. A**, at 9-11 section entitled “Maricopa Chain of Custody Process.”

³ *Id.* at 11 (emphasis added). See also *id.* at 29-33 (making same claim).

⁴ See Petitioner’s Opposition To Motion For Sanctions And Cross-Motion For A Procedural Order For Leave To File A Motion For Reconsideration of The Denial of Her Petition For Review (“Opp. Br. to
Page 4 of 17

Following that delivery, Runbeck scanned the ballot envelopes for the voter signature to be used in the signature verification process, and counted the ballots, identifying the number of ballots scanned on the Runbeck Scan Receipts.⁵

If Hobbs correctly stated that “Maricopa ‘maintain[s] chain of custody for every one of those early ballots all the way through the process[,]’ such that the County would be aware of any ballot ‘inserted or rejected or lost’ in any part of the process,” then logic would dictate that the number of ballots reflected on these two exhibits would be the same, or at least very close to, each other. If there were any larger discrepancy, the “process” which Defendants defended would have demonstrated that ballots had been “inserted or rejected or lost.” If it is now said to be somehow illegitimate to compare those two “chain of custody” forms, such that they cannot be used to show that ballots were “inserted or rejected or lost,” then Hobbs’ use of these defense trial exhibits in no way demonstrated Maricopa’s ability to maintain ballot “chain of custody,” as Hobbs argued to the Court of Appeals. In other words, Hobbs’ argument would be false or misleading.

The issue here is the chain of custody for early ballots Maricopa received on Election Day. Thus, Plaintiff Kari Lake’s Reply Brief in the Court of Appeals responded to Hobbs’ argument above by simply counting the Runbeck Receipts of Delivery for early ballots delivered to Runbeck on and after November 8, 2022 (Election Day)—and showed Runbeck recorded receiving **263,379 early ballots** during that period.⁶ It was then noted that the Runbeck Scan Receipts showed that Runbeck scanned **a total of 298,942** of Election Day early ballots during the same time period—**a discrepancy of 35,563 ballots**.

Specifically, we stated in Lake’s reply brief that:

Second, Hobbs’ reliance on two Runbeck created forms, “MC Inbound—Receipt of Delivery” (Hobbs.Appx:89-131) and “MC Incoming Scan Receipt” (Hobbs.Appx:132-61) proves the impact of Maricopa’s chain of custody violations. Hobbs. Br. 29. ***Counting the number of ballots recorded on the Runbeck created “MC Inbound—Receipt of Delivery” forms for early ballots delivered to Runbeck on***

Sanctions”) attached as **Ex. B**, at 2-4. *See also Ex. C*, Excerpts of 2023-01-17 Hobbs Appendix (attaching defense trial exhibits 33 and 82).

⁵ **Ex. B**, Opp. Br. to Sanctions at 3-4.

⁶ *See* Reply Brief of Appellant-Petitioner Kari Lake, attached as **Ex. D**, at 29-30, citing the Election Day early ballots on Runbeck Receipts of Delivery citing an excerpt of trial exhibit 82, Hobbs.Appx:123-131 (receipts dated 11/8-9/22 which are also marked “Election Day” or “Election Night”). *See also Ex. C*, Excerpts of 2023-01-17 Hobbs Appendix (attaching defense trial exhibits 33 and 82).

and after Election Day documents only 263,379 early ballots received by Runbeck. Hobbs.Appx:123-131. In comparison, the “MC Incoming Scan Receipts” Hobbs (Hobbs.App:132-61) cites in her brief, documents the total number of early ballots scanned for signature verification at Runbeck as 298,942, the same figure reported by the Runbeck whistleblower noted in Lake’s opening brief at 18. In other words, the very “MC Inbound Receipt of Delivery” forms that Hobbs points to as chain of custody, fail to document any record of delivery or receipt of the other 35,563 ballots scanned at Runbeck, an inexplicable discrepancy that far exceeds the margin between Hobbs and Lake.

In sum, the unexplained increase of over 25,000 ballots in the total reported to the Secretary of State between November 9 and 10, far exceeding the 17,117 margin of votes between Hobbs and Lake, is a direct manifestation of Maricopa’s violating the EPM’s chain-of-custody requirements. Maricopa and Hobbs still have no explanation for this discrepancy, a discrepancy that would not exist had Maricopa followed mandated chain-of-custody procedures.

Had Defendants disputed this calculation showing a difference of **35,563 ballots**, surely they would have made their views known to the Court of Appeals. However, none of the Defendants took any step to dispute this contention made in Lake’s reply brief by requesting oral argument after Lake filed her reply brief, as was their right under ARCAP 18(a), or by seeking leave to file a sur-reply. It would be a mystery as to how Defendants could have disputed that contention because it was based on numbers correctly drawn from exhibits offered by Hobbs so Defendants simply ignored that inconvenient truth.

Thus, the only way to dispute the assertion that 35,563 were added was to challenge the accuracy of arithmetic or that one or more receipts was not for Election Day early ballots — which no Defendant has done with one exception. As discussed below, one receipt from defense trial exhibit 82 was included that Fontes and Maricopa argued at the Arizona Supreme Court should not have been included. However, removing that receipt as they suggested makes the difference with the Runbeck Scan Receipts *far larger than 35,563 ballots*, and thus does not dispute the existence of this discrepancy. In any event, the record reflects that there was no dispute presented to the Court of Appeals at that time.

Below is one of the demonstrative tables⁷ submitted to the Arizona Supreme Court illustrating this calculation using the relevant receipts from excerpt of defense trial exhibit 82 “MC Inbound—Receipt of Delivery” compared to defense trial exhibit 33 entitled “MC Incoming Scan Receipt.”

⁷ See Appendix To Petitioner’s Opposition To Motion For Sanctions and Crossmotion For A Procedural Order For Leave To File A Motion For Reconsideration of The Denial of Her Petition For Review (“Second Supp. Appx.”) attached as **Ex. E**, at SEC.SUPP.APPX: 059.

TABLE 2

Comparison of MC Inbound Receipt of Delivery to MC Incoming Scan Receipts
 Defense Trial Exhibits 82 (November 8-9, 2022) – Trial Exhibit 33

MC Inbound Receipt of Delivery								MC Incoming Scan Receipt			
Exhibit	Date	Time	USPS	MOB	CTR	MISC	Total	Date	Early ²	Provis.	Exhibit
Hobbs 123	8-Nov	6:47AM ¹	5,600	33,994	7,844	1,041	48,479	8-Nov	1,675	0	Hobbs 159
Hobbs 124	8-Nov	7:15PM	Election Day				1,750	8-Nov	10,056	0	Hobbs 160
Hobbs 125	8-Nov	10:00PM	Election Day				9,450	8-Nov	3,244	248	Hobbs 161
Hobbs 126	8-Nov	11:43PM	Election Day				28,350	9-Nov	9,945	0	Hobbs 133
Hobbs 128	9-Nov	1:43AM	Election Day				65,100	9-Nov	10,486	0	Hobbs 134
Hobbs 129	9-Nov	3:27AM	Election Day				73,500	9-Nov	10,198	0	Hobbs 135
Hobbs 127	9-Nov	4:43AM	Election Day				36,750	9-Nov	9,847	0	Hobbs 136
Total MC Inbound Receipt of Delivery Ballot Count 11/8							263,379 ³	9-Nov	10,728	0	Hobbs 137
								9-Nov	10,903	0	Hobbs 138
								9-Nov	10,231	0	Hobbs 139
								9-Nov	10,476	0	Hobbs 140
								9-Nov	10,735	2,173	Hobbs 141
								9-Nov	10,515	227	Hobbs 142
								9-Nov	10,565	240	Hobbs 143
								9-Nov	10,840	254	Hobbs 144
								9-Nov	11,149	362	Hobbs 145
								9-Nov	10,548	276	Hobbs 146
								9-Nov	10,559	294	Hobbs 147
								9-Nov	10,398	198	Hobbs 148
								9-Nov	11,087	215	Hobbs 149
								9-Nov	10,441	249	Hobbs 150
								9-Nov	10,484	248	Hobbs 151
								9-Nov	10,609	339	Hobbs 152
								9-Nov	10,544	237	Hobbs 153
								9-Nov	10,645	228	Hobbs 154
								9-Nov	10,799	327	Hobbs 155
								9-Nov	10,847	293	Hobbs 156
								9-Nov	10,839	277	Hobbs 157
								9-Nov	12,510	293	Hobbs 158
								Early Ballots	291,903	6,978	Provisional Ballots
								Total Runbeck Scan 298,942			

Delivered to Runbeck on 11/8-9	263,379
Scanned at Runbeck on 11/8-9	298,942
Discrepancy	-35,563

¹ 6:47AM Ballot Delivery on 8-Nov contained ballots from 7-Nov and USPS but all ballots were included in the count of ballots delivered to Runbeck on 8-Nov. This is the maximum number of ballots delivered and the lowest possible discrepancy.

² Early Ballots is the sum of all categories of early ballots on the MC Incoming Scan Receipt including all inbound scan, over, under, invalid app ID and unreadable.

³ The total of 263,379 ballots does not include the 184 Late ballots delivered to Runbeck at 2:38PM on November 9, 2022 as shown on Table 1.

As shown in Table 2, *supra*, this entire controversy revolves around the simple addition of the numbers of ballots on an apples-to-apples comparison of the chain of custody receipts that Hobbs cited as proof that Maricopa followed ballot chain of custody procedures and would know if “any ballot [was] ‘inserted or rejected or lost’ in any part of the process.”

Notably, as demonstrated below, the different shaded color for “Hobbs 123” in the chart under the column “MC Inbound Receipt of Delivery” (*i.e.*, the “Runbeck

Receipts of Delivery”) is to highlight the receipt that Maricopa and Fontes argued should not have been included — but which as discussed below, was the conservative approach since that receipt was dated November 8, 2022, and was marked “Election Day”—and by including that receipt it *decreased* the ballot discrepancy to 35,563 ballots.

II. Lake’s Petition for Review Correctly Raised as an Issue on Appeal the Unchallenged Fact that 35,563 Ballots Were Scanned at Runbeck Which Had Not Been in the Trays Delivered by Maricopa to Runbeck.

In Lake’s Petition for Review, we included as one of the issues presented for review:

Did the panel err when it ignored the undisputed fact that 35,563 unaccounted for ballots were added to the total number of ballots at a third party processing facility—an amount far exceeding the vote margin between Hobbs and Lake—holding that fact was insufficient to show the election’s outcome was at least “uncertain” under Findley, 35 Ariz. At 269?

As explained *supra*, the 35,563 ballot discrepancy between the Runbeck Receipts of Delivery and the Runbeck Scan Receipts is a straightforward arithmetic calculation based on numbers contained in two trial exhibits that *Hobbs argued* showed that Maricopa “would be aware of any ballot ‘inserted or rejected or lost’ in any part of the process.” As noted above, none of the Defendants disputed this issue with the Court of Appeals despite having had various methods to do so.

In their Responses to the Petition, Maricopa and Fontes challenged the Petition Appendix for having identified the Election Day Runbeck Receipts of Delivery from defense trial exhibit as “MC Inbound – Receipts of Delivery (Trial Ex. 82)” when in fact it was a subset of that exhibit which did not include pre-Election Day receipts. This argument is bogus and misleading.

First, pre-Election Day Runbeck Receipts of Delivery in defense trial exhibit 82 are not relevant when comparing to defense trial exhibit 33 because the latter exhibit only includes Runbeck Scan Receipts for November 8, 2022, Election Day and later, and the express issue is the 35,563 ballot discrepancy related to Election Day early ballots.⁸

⁸ See Lake Appendix to Petition for Review of a Special Action Decision of the Court of Appeals, attached as **Ex. F**, at APPX: 002 (Appendix # 10).

Second, as noted above, Lake’s reply brief in the Court of Appeals clearly stated that it only used those receipts forms “for early ballots delivered to Runbeck on and after Election Day.... (Hobbs.Appx:123-131)” in this calculation.⁹ Thus, Defendants clearly knew which receipts were the relevant excerpt of defense trial exhibit 82 in this calculation.

Third, it was made clear to the Supreme Court in Lake’s consolidated reply brief that we were citing an excerpt of defense trial exhibit 82 relating to Election Day early ballot receipts.¹⁰

Fourth, as discussed above (and below), the only challenge any Defendant made to using this excerpt of defense trial exhibit 82 was that it included a Runbeck Delivery Receipt “Hobbs 123” noted in Table 2 above. As stated to the Arizona Supreme Court, this receipt was included to be “conservative[.]” since that receipt was dated November 8, 2022, and was marked “Election Day.”¹¹ However, as stated above, including that receipt increased the number of early ballots received by Runbeck attributed to Election Day and thus *decreased* the ballot discrepancy to 35,563 ballots, otherwise the discrepancy would have *increased by 48,379 ballots* by not including that receipt. *Id.*

III. Hobbs’ Misdirection Regarding the 35,563 Ballot Discrepancy Between the Runbeck Receipts of Delivery and the Runbeck Scan Receipts for Election Day Early Ballots — the Two Trial Exhibits relied on by Hobbs in the Court of Appeals — Demonstrates that Hobbs Did Not Dispute this Issue in her Response to Lake’s Petition for Review.

Not only did Hobbs make incorrect statements in her response to Lake’s Petition for Review with respect to the 35,563 ballot issue, she also failed to address the discrepancy between Runbeck Receipts of Delivery and the Runbeck Scan Receipts for Election Day early ballots. Specifically, Hobbs argued:

Lake’s next chain of custody argument—whether the panel erred “when it ignored the undisputed fact that 35,563 unaccounted for

⁹ See **Ex. D** Reply Brief of Appellant-Petitioner Kari Lake at 29-30.

¹⁰ See Lake Reply In Support of Petition for Review, attached as **Ex. G**, at 3-4. See also **Ex. B**, Opp. Br. to Sanctions at 3-5.

¹¹ **Ex. B**, Opp. Br. to Sanctions at 11-12.

ballots were added to the total number of ballots” by Maricopa’s third-party ballot processing facility, Runbeck Election Services, see Pet. 3—blatantly misrepresents key facts from the record. [note 2] In her complaint, Lake originally alleged that the chain of custody documentation for early ballot packets collected from drop boxes on Election Day did not exist. App. 62, Compl. ¶ 112(a). Now, Lake argues that not only did those records exist, but that they show that “35,563 more ballots were inserted at Runbeck and sent back to MCTEC for tabulation.” Pet. 13-14. This figure is a complete fabrication. While Lake asserts that “Exhibit 33” reflects the number of “ballots that [Runbeck] scanned and sent back to MCTEC[,]” id. at 5, the “Incoming Scan Receipts” at Exhibit 33 in fact reflect the total early and provisional ballot packets received by Maricopa on Election Day and sent to Runbeck for scanning. App. 646-647 (2 Tr. At 199:5-200:24; see also App. 741-770 (Ex. 33)). Notably, Lake’s petition for review is the first time Lake presents this fictitious number of 35,563 ballots introduced at Runbeck. The only evidence Lake previously offered of unauthorized ballots inserted into the count was from a non-witness declarant, who claimed that she observed Runbeck employees adding about 50 ballot envelopes from family members into the pool of early ballots at Runbeck. App. 378, 391-392 (1 Tr. 221:17-22, 234:1-235:8 (Honey)). This Court should reject Lake’s request to grant review of her election contest based on new and baseless facts.¹²

First, Hobbs’ statement to the Court that “[n]otably, Lake’s petition for review is the first time Lake presents this fictitious number of 35, 563 ballots introduced at Runbeck” is demonstrably false. As shown above, Lake raised this precise issue in her Reply Brief in the Court of Appeals.¹³ Further, it is well-settled that because Lake unarguably raised not only the chain-of-custody issue, but also the unlawful injection of ballots at Runbeck a trial, it was proper to raise related

¹² Hobbs’ Response to Petition for Review (“Hobbs Resp. Br.”) at 7-8, attached as **Ex. H**. At footnote 2 of her brief in the block quote above, Hobbs stated “[i]n response to this argument, Governor Hobbs also incorporates by reference Maricopa’s description of the mischaracterization of trial evidence at trial exhibits 33 and 82 in the County’s March 13, 2023 response to Lake’s petition for review at 4-6, and Secretary of State Fontes’s discussion of the matter in his March 13, 2023 response to Lake’s petition for review at 7-10.” Those arguments are addressed below.

¹³ See also Lake Reply In Support of Petition for Review attached as **Ex. G**, at 3-4.

arguments in support of the chain-of-custody issue on appeal, especially in light of the fact we were responding to Hobbs' argument.¹⁴

Second, Hobbs did not dispute the 35,563 ballot discrepancy *between* the Runbeck Receipts of Delivery and the Runbeck Scan Receipts for Election Day early ballots (excerpt of trial exhibit 82 and trial exhibit 33, respectively). This is obvious as Hobbs cites "Exhibit 33" in her argument quoted above but fails to make any mention of Exhibit 82. As Lake pointed out in her consolidated Reply Brief in support of the Petition as discussed below, Hobbs misdirected and conflated Runbeck Receipts of Delivery with a *different* chain of custody form discussed at ¶ 112(a) of Lake's complaint. The latter form is completed by Maricopa *before* the ballots are delivered to Runbeck. Thus, Hobbs did not address the ballot discrepancy between the two types of chain of custody forms *she cited* in her answering brief in the Court of Appeals that formed the basis for the 35,563 ballot discrepancy claim raised by me.

Specifically, we stated in Lake's consolidated reply brief filed with the Arizona Supreme Court:

Just as Respondents do here, Hobbs attempted to mislead the court of appeals in her answering brief below by *conflating two distinct sets of forms*: (a) a defense trial exhibit, MC Inbound—Receipt of Delivery forms which were filled out at Runbeck and documented the delivery of EDDB ballots from MCTEC on Election Day [Election Day early ballots], and (b) the Maricopa County Delivery Receipt forms which . . . on Election Day, should have been (but were not) completed at MCTEC with the precise number of EDDB ballots sent to Runbeck. Supp.Appx:13-14 (Excerpt of Lake Reply [filed 1/24/23 in the Court of Appeals]).¹⁵

In her reply brief below, Lake showed that the number ballots Runbeck received on Election Day and recorded on the MC Inbound—Receipt of Delivery forms cited by Hobbs, including all EDDB ballots received from MCTEC, totaled 263,379 ballots. *Id.* In her answering brief below, Hobbs also included a defense trial exhibit, MC Incoming Scan Receipt forms, which showed that Runbeck scanned a total of 298,942 ballots on Election Day—an unaccounted

¹⁴ *Id.* at 4, n.1.

¹⁵ Lake's Reply Brief is attached hereto as **Ex. D.**

for discrepancy of 35,563 ballots. *Id.* (addressing Hobbs’ answering brief).

In her reply brief below, as in her Petition to this Court, Lake cited the same excerpt of that trial exhibit of MC Inbound—Receipt of Delivery forms [excerpt of defense trial exhibit 82] showing how Runbeck received 35,563 fewer ballots on Election Day than it scanned and sent back to MCTEC. *Id.* Notably, none of the Respondents disputed this issue below by either requesting oral argument after Lake filed her reply, as was their right under ARCAP 18(a), or by seeking leave to file a sur-reply.

In sum, Hobbs failed to address the 35,563 ballot discrepancy between Runbeck Receipts of Delivery and the Runbeck Scan Receipts for Election Day early ballots. Instead, Hobbs conflated a different chain of custody form with the Runbeck Receipts of Delivery to concoct a false — and unsupported argument — that I “fabricated” this claim. In doing so, Hobbs avoided disputing the ballot discrepancy I raised and thus did not dispute this issue.

IV. Fontes’ and Maricopa’s Responses to Lake’s Petition for Review.

Fontes and Maricopa also made demonstrably incorrect arguments in an attempt to distract and deflect attention from the straightforward arithmetic comparison of receipts in the two defense trial exhibits concerning Election Day early ballots. As stated in briefing to the Supreme Court, Defendants “have not even attempted to show any evidence rebutting Lake’s claims regarding the 35,563 ballots for which Runbeck has no record of receiving.”¹⁶

First, Like Hobbs discussed above, Fontes and Maricopa also falsely argued that the 35,563 ballot discrepancy issue had *not* been raised before filing the Petition, and further incorrectly conflated the Runbeck Receipts of Delivery with a *different* chain of custody form discussed at ¶ 112(a) of Lake’s complaint.¹⁷ As stated in Lake’s reply brief in support of the Petition:

¹⁶ **Ex. B**, Opp. Br. to Sanctions at 2. The brief incorrectly said 35,379 ballots instead of 35,563 ballots but that was corrected with an errata.

¹⁷ Fontes Response to Petition for Review (“Fontes Resp. Br.”), attached as **Ex. I**, at 8; Maricopa Response to Petition for Review (“Maricopa Resp. Br.”), attached as **Ex. J**, at 6.

Without identifying which specific chain-of-custody forms Lake previously asserted did “not exist”, all Respondents misleadingly argue at length that Lake’s Petition now “recasts her allegation and asserts that those non-existent records show that over 30 thousand ballots were somehow wrongfully inserted into the results.” Fontes Br. at 8 (citing App. 62, Compl. ¶ 112(a) (emphasis in Fontes Brief); accord Hobbs Br. at 8; Maricopa at 6. Such assertions are categorically false.¹⁸

As discussed in Section III, *supra*, like Hobbs, Fontes and Maricopa conflated a different chain of custody form — the Maricopa County Delivery Receipt forms identified in at Lake’s Complaint at ¶ 112(a) with the Runbeck Receipts of Delivery. Whether or not this argument based on an inapt and misleading comparison was intentional, it again demonstrates that Fontes and Maricopa did not “dispute” the 35,563 ballot discrepancy raised by me based on Runbeck Receipts of Delivery and Runbeck Scan Receipts.

Second, Maricopa and Fontes also made the same argument that implied that the excerpt of defense trial exhibit 82 did not include all Election Day early ballots received by Maricopa and delivered to Runbeck. However, in explicating that argument both Defendants only argued that two receipts were included that they claimed should not have been included. However, as discussed above, the one Runbeck Receipt of Delivery Fontes and Maricopa argued should not be included hurt their argument because, as discussed above, including that receipt *decreased* the ballot discrepancy when comparing to the Runbeck Scan Receipts. The other receipt was not included in any calculation as Fontes and Maricopa argued.

Specifically, Maricopa argued that:

With her Petition, Lake submitted an Appendix that included only the Receipt of Delivery forms dated November 8, 2022 or after. (Lake App. At 732–40.) She characterized this as “Exhibit 82,” when in fact it was only nine pages of the full 43-page exhibit. (Lake App. at 2.) She also wholly mischaracterized the few pages that she did provide. ***Those pages do not reflect all early ballot packets deposited by voters at vote centers on Election Day.*** Indeed, some of the pages that Lake appended to her Petition record ballots delivered from USPS to Runbeck on Election Day or those retrieved from USPS after Election

¹⁸ **Ex. G**, Lake Reply In Support of Petition for Review at 1-2.

Day, which are considered late and are not tabulated. (*See Lake App. at 732 (early ballot packets delivered from USPS before 7:00 am on Election Day), 739 (late-received packets).*) In short, the Receipt of Delivery forms are not for ballots received at vote centers on Election Day.¹⁹

Also addressed was Defendants' implicit argument that not all Election Day early ballots were included on the Runbeck Receipts of Delivery showing that the "the [Runbeck] Receipt of Delivery forms include all ballots that "Runbeck records as receiving from Maricopa, including drop-box ballots, provisional ballots, and USPS ballot" and citing Maricopa's own description of defense trial exhibit 82 in its answering brief at the Court of Appeals and the testimony of its own witness Co-Director of Elections, Ray Valenzuela.²⁰ To be clear, there are no other chain-of-custody forms that record additional sources of ballots delivered to Runbeck that could account for the 35,563-ballot discrepancy.²¹

Moreover, their argument backfired on them. Had the receipt identified as Lake.Appx.732 (Hobbs 123 in Table 2 above) not been included, as Maricopa and Fontes argued, the removal of that receipt would increase the ballot discrepancy by the number of ballots identified on that receipt i.e., it would increase the discrepancy by 48,479 ballots. *See* Table 2 above. Specifically, we stated:

In fact, Maricopa's objection that Lake included early ballots delivered to Runbeck by USPS (and other ballots reflected on Lake.Appx.732) does not advance their argument. It undermines their argument. Specifically, Lake included a single Runbeck Receipt of Delivery form (Lake.Appx:732) that included ballots retrieved from USPS and other early ballots delivered to Runbeck prior to 7:00 am on Election Day *because that form stated on it "Election Day,"* even though delivered before vote centers opened. As noted above in Section II, Lake's inclusion of these ballots from that form

¹⁹ *See Ex. J*, Maricopa Resp. Br. at 5-6 (emphasis added). Fontes made the same argument, nearly verbatim. *See Ex. I*, Fontes Resp. Br. at 8-9.

²⁰ *See Ex. B*, Opp. Br. to Sanctions at 10 citing Lake Appendix To Petition For Review of A Special Action Decision of the Court of Appeal ("Lake.Appx") attached as *Ex. F* at Lake.Appx:148-51 (Maricopa Answering Br. 18-21 describing Maricopa's chain-of-custody process); *id.* 605-06 (Valenzuela Tr. 158:25-159:11 Runbeck Receipt of Delivery forms "document that when we show up at Runbeck that we are, basically, transferring that custody").

²¹ *Ex. B*, Opp. Br. to Sanctions at 7-10.

(Lake.Appx:732) increased the number of early ballots Runbeck recorded receiving between November 8-9, 2022 by 48,479 ballots—thereby reducing the ballot discrepancy. Second.Supp.Appx:059 (Table 2, comparison of Defense Trial Exs. 33 and 82). Lake calculated the discrepancy conservatively by including these early ballots on that one form (Lake.Appx:732)²²

Thus, the 35,563 ballot discrepancy was calculated conservatively by including these early ballots on that form (Lake.Appx:732). It also showed how, contrary to Defendants’ argument, that the calculation did not include the 184 “late received packets” recorded on another Runbeck Receipt of Delivery form (Lake.Appx:739) in my calculation.²³

Lastly, Maricopa’s and Fontes’ argument that the “Incoming Scan Receipts” (Trial Ex. 33) do not reflect “ballots that [Runbeck] scanned and sent back to MCTEC” was addressed.²⁴ Specifically, contrary to Defendants statements, Maricopa’s Co-Director of Elections Scott Jarrett testified that all 298,942 early ballots scanned at Runbeck are transferred back to MCTEC (*i.e.*, Runbeck does not keep any ballots).²⁵ In any event, this argument is irrelevant as to the issue of the ballot discrepancy itself.

In sum, neither Maricopa nor Fontes actually “disputed” the 35,563 ballot discrepancy except to make that number actually higher by 48,479 ballots by arguing the calculation should not have included the one Runbeck Receipt of Delivery with 48,479 ballots identified on it.

Conclusion

As shown above, we had and still have a good faith basis for arguing that at least 35,563 ballots were illegally injected into the system through Runbeck. The law required that Maricopa County election officials count the ballots they receive from each drop box at the central processing facility specifically so that it is known where the total number of drop box and mail in ballot packets originated from. This did not happen in 2022 and the result is a substantial disparity in the number of

²² *Id.* at 11-12.

²³ *Id.* at 12, note 2. *See also* Table 2 above at note 3.

²⁴ **Ex. J**, Maricopa Resp. Br. at 5; **Ex. I**, Fontes Resp. Br. at 10.

²⁵ **Ex. B**, Opp. Br. to Sanctions at 12.

ballots Maricopa County records show were transferred to Runbeck and the total number of ballots Runbeck processed on behalf of Maricopa County.

The assertion that the discrepancy was “undisputed” was and is reasonable based on Fontes’, including: (i) Hobbs argument that Maricopa would know “of any ballot ‘inserted or rejected or lost’ in any part of the process” based on those two exhibits; (ii) no Defendant challenged or sought to correct the record regarding this assertion in the Court of Appeals despite opportunities to do so; (iii) no Defendant disputed the basic arithmetic showing this discrepancy; and (iv) no Defendant pointed to any receipts incorrectly included in this calculation that would lower the 35,563 ballot discrepancy (i.e. Fontes and Maricopa only pointed to a receipt that, if removed as they implicitly suggested, would *increase* the discrepancy by 48,379 ballots). These fact clearly demonstrate a good faith basis to assert as an “undisputed fact that 35,563 unaccounted for ballots were added to the total number of ballots” at Runbeck.

As stated at the outset of this response, this argument was presented on behalf of our client in good faith and I continue to believe it has merit. In no way did I or have I ever attempted to mislead the Court and I am not now seeking to mislead the State Bar of Arizona. If you have any questions or need further information or explanation, I would be pleased to provide a further response.

Sincerely,

Blehm Law PLLC

A handwritten signature in blue ink, appearing to read 'B. Blehm', is written over the printed name.

Bryan James Blehm

Attorney at Law

Exhibits A-K to
R's Response
6/15/2023

Sandra Montoya

From: Jennifer Smith
Sent: Friday, May 12, 2023 8:21 AM
To: Bryan Blehm
Cc: Hunter F. Perlmeter
Subject: RE: Arizona State Bar No.23-1165 - Blehm

Your request for an extension has been approved. You're new due date to submit a response is June 14, 2023. Thanks

From: Bryan Blehm <bryan@blehmlegal.com>
Sent: Friday, May 12, 2023 7:32 AM
To: Donato Zavala <Donato.Zavala@staff.azbar.org>
Cc: Jennifer Smith <Jennifer.Smith@staff.azbar.org>
Subject: Re: Arizona State Bar No.23-1165 - Blehm

All,

Attached is a Notice of Compliance showing that Mr. Olsen and I have paid the Supreme Court Sanction of \$2,000. As you are likely aware, the Supreme Court remanded a portion of the matter to which the sanction applied and we are presently preparing for trial on an expedited basis. Due to the time constraints and my desire to both represent my client's interests and defend myself with respect to this charge, I am requesting an extension of 20 days to prepare my case. Please let me know if you will grant said extension.

Thank You

Bryan James Blehm
Blehm Law PLLC
10869 N. Scottsdale Rd., #103-256
Scottsdale, AZ 85254
602-753-6213

On Fri, May 5, 2023 at 3:20 PM Donato Zavala <Donato.Zavala@staff.azbar.org> wrote:

Good Afternoon,

Attached is a letter from Senior Bar Counsel Hunter Perlmeter and Staff Bar Counsel Kelly Goldstein regarding the above-referenced matter.

Thank You,



Donato Zavala, Legal Secretary

State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7278 F : 6024167478

EMAIL: Donato.Zavala@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.

Beware External Email - Think Before You Act

Links and attachments should not be opened unless expected or verified

Sandra Montoya

From: Bryan Blehm <bryan@blehmlegal.com>
Sent: Friday, May 12, 2023 7:32 AM
To: Donato Zavala
Cc: Jennifer Smith
Subject: Re: Arizona State Bar No.23-1165 - Blehm
Attachments: Notice of Payment of Sanction.pdf

All,

Attached is a Notice of Compliance showing that Mr. Olsen and I have paid the Supreme Court Sanction of \$2,000. As you are likely aware, the Supreme Court remanded a portion of the matter to which the sanction applied and we are presently preparing for trial on an expedited basis. Due to the time constraints and my desire to both represent my client's interests and defend myself with respect to this charge, I am requesting an extension of 20 days to prepare my case. Please let me know if you will grant said extension.

Thank You

Bryan James Blehm
Blehm Law PLLC
10869 N. Scottsdale Rd., #103-256
Scottsdale, AZ 85254
602-753-6213

On Fri, May 5, 2023 at 3:20 PM Donato Zavala <Donato.Zavala@staff.azbar.org> wrote:

Good Afternoon,

Attached is a letter from Senior Bar Counsel Hunter Perlmeter and Staff Bar Counsel Kelly Goldstein regarding the above-referenced matter.

Thank You,



Donato Zavala, Legal Secretary

State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7278 F : 6024167478

EMAIL: Donato.Zavala@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.

Beware External Email - Think Before You Act

Links and attachments should not be opened unless expected or verified

ARIZONA SUPREME COURT

KARI LAKE,

Plaintiff/Appellant,

v.

KATIE HOBBS, *et al.*,

Defendants/Appellees.

Court of Appeals

Division One

No. 1 CA-CV 22-0779

No. 1 CA-SA 22-0237

(CONSOLIDATED)

KARI LAKE,

Petitioner,

v.

THE HONORABLE PETER
THOMPSON, Judge of the SUPERIOR
COURT OF THE STATE OF
ARIZONA, in and for the County of
MARICOPA,

Respondent Judge,

KATIE HOBBS, personally as
Contestee; ADRIAN FONTES, in his
official capacity as Secretary of State;
STEPHEN RICHER, in his official
capacity as Maricopa County Reporter,
et al.,

Real Parties in Interest.

Maricopa County

Superior Court

No. CV2022-095403

**NOTICE OF PAYMENT OF
SANCTIONS**

Kurt B. Olsen (admitted *pro hac vice*)
Olsen Law PC
1250 Connecticut Ave. NW, Ste. 700
Washington, DC 20036
Tel: 202-408-7025
Email: ko@olsenlawpc.com

Bryan James Blehm, Ariz. Bar #023891
Blehm Law PLLC
10869 N. Scottsdale Rd., Suite 103-256
Scottsdale, Arizona 85254
Tel: 602-753-6213
Email: bryan@blehmlegal.com

Counsel for Petitioner

On May 4, 2023, this Court ordered counsel for Plaintiff/Appellant to pay a \$2,000 sanction. Notice is hereby provided that counsel for Plaintiff/Appellant has complied with this Court's Order. *See* Receipt attached hereto as Exhibit A.

Dated: May 11, 2023

Respectfully submitted,

Kurt B. Olsen (admitted *pro hac vice*)
Olsen Law PC
1250 Connecticut Ave. NW, Ste. 700
Washington, DC 20036
Tel: 202-408-7025
Email: ko@olsenlawpc.com

/s/Bryan James Blehm
Bryan James Blehm, Ariz. Bar #023891
Blehm Law PLLC
10869 N. Scottsdale Rd., Suite 103-256
Scottsdale, Arizona 85254
Tel: 602-753-6213
Email: bryan@blehmlegal.com

Counsel for Petitioner

EXHIBIT A

RECEIPT

Receipt No.: 2023-00475

Arizona Supreme Court

May 11, 2023

ACCOUNT: KARI LAKE

Account Id: 42151

ga

PAID FOR: KARI LAKE

Receipt Id: 50046

PAID BY: Olsen Law P.C.

COURT	CASE	SHORT CAPTION			
ASC	CV-23-0046-PR	KARI LAKE v KATIE HOBBS, et al			
<u>Receivable</u>		<u>Qty</u>	<u>Original Fee</u>	<u>Current Payment</u>	<u>Balance Due</u>
\$50 Sanction		40	\$2,000.00	\$2,000.00	\$0.00

<u>Payment Method</u>	<u>Check No.</u>	<u>Amount</u>
Check payment	1005	\$2,000.00

TOTAL AMOUNT TENDERED: \$2,000.00
TOTAL PAID: \$2,000.00
CHANGE DUE: \$0.00

Retain receipt as proof of payment.

Sandra Montoya

From: Bryan Blehm <bryan@blehmlegal.com>
Sent: Friday, May 5, 2023 3:29 PM
To: Donato Zavala
Cc: Jennifer Smith
Subject: Re: Arizona State Bar No.23-1165 - Blehm
Attachments: image001.gif

Thank you. I will respond accordingly.

On Fri, May 5, 2023, 3:20 PM Donato Zavala <Donato.Zavala@staff.azbar.org> wrote:

Good Afternoon,

Attached is a letter from Senior Bar Counsel Hunter Perlmeter and Staff Bar Counsel Kelly Goldstein regarding the above-referenced matter.

Thank You,



Donato Zavala, Legal Secretary

State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7278 **F :** 6024167478

EMAIL: Donato.Zavala@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM

DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.

Beware External Email - Think Before You Act

Links and attachments should not be opened unless expected or verified

Sandra Montoya

From: Donato Zavala
Sent: Friday, May 5, 2023 3:20 PM
To: bryan@blehmlegal.com
Cc: Jennifer Smith
Subject: Arizona State Bar No.23-1165 - Blehm
Attachments: Letter to R Initial Screen letterhead.pdf; AADC Pro Bono Flyer 2023.pdf; Initial Charge.pdf

Good Afternoon,

Attached is a letter from Senior Bar Counsel Hunter Perlmeter and Staff Bar Counsel Kelly Goldstein regarding the above-referenced matter.

Thank You,



Donato Zavala, Legal Secretary
State Bar of Arizona

4201 N. 24th St., Suite 100 | Phoenix, AZ 85016-6266

T : 602.340.7278 **F :** 6024167478

EMAIL: Donato.Zavala@staff.azbar.org

www.azbar.org

Serving the public and enhancing the legal profession.

This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY - CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.



Assistant's Direct Line: (602)340-7272

Via Email Only: bryan@blehmlegal.com

May 5, 2023

PERSONAL AND CONFIDENTIAL

Bryan James Blehm
Blehm Law PLLC
10869 N Scottsdale Rd Ste 103256
Scottsdale, Az 85254-5280

Re: File No: 23-1165
Complainant: State Bar of Arizona

Dear Mr. Blehm:

The State Bar has received information concerning your professional conduct that warrants a screening investigation pursuant to Rule 55(b), Ariz. R. Sup. Ct. At this point, the matter is not considered a formal complaint, but rather a "bar charge" that is being investigated through a "screening investigation." Your participation in the screening investigation is extremely important, as Bar Counsel will make a recommendation at the end of the investigation as to the disposition of this matter. Pursuant to ER 8.1(b) and Rule 54(d), Ariz. R. Sup. Ct., you have a duty to cooperate with this investigation. Failure to fully and honestly respond to, or cooperate with, the investigation is, in itself, grounds for discipline.

A copy of the information received by the State Bar has been included with this letter. Please assure that a written response to the enclosed information is in the State Bar's office, directed to my attention, by:

5:00 pm, May 25, 2023.

In addition to your written response, an investigator from our office or I may contact you to discuss this matter. Do not send your written response or a copy of your response directly to the Complainant. If you cannot file a timely response, you should contact my office immediately. Please also include the above-referenced file number on all correspondence concerning this matter. You must submit **an original and one copy** of your written response. If you do not submit a copy with your response, you will be charged \$.25 per page for copying your response.

The ethical rules that should be addressed in your response include but are not limited to: Ariz. R. Sup. Ct. 42, ER 3.1, ER 3.3(a), ER 8.4(c), and ER 8.4(d). In addition, please provide with your response copies of all briefing or other filings you submitted to the Arizona Supreme Court addressing the alleged 35,563 unaccounted for ballots, and the evidence that you contend supports that calculation.

A copy of your response will be sent to the Complainant and may become public record upon disposition of the matter. You may make a request that certain information in your response remain confidential pursuant to Rule 70(g) Ariz. R. Sup. Ct. **Any such request must be**

made in a letter separate from your response and must set forth the reason for the request. We will forward your request to the Presiding Disciplinary Judge who will rule on it. You must specify whether you want to keep the information from the public, but not the complainant, or from both the public and the complainant. At the time you make such a request, you must submit the information for which confidentiality is requested as part of your request. You should also submit a redacted copy to remain in the public portion of the file, as the rules require some type of response to remain in the public portion of the file. Requests for confidentiality are only granted sparingly and only upon good cause shown. If your request for confidentiality is denied, the information or documents in question will not be returned to you but will become public upon disposition of the matter.

The State Bar has a diversion program which, in some cases, may provide an alternative to traditional discipline. Diversion is a confidential rehabilitative program available to lawyers whose ethical misconduct is of a non-serious nature and who may benefit from one or more of the State Bar's remedial programs, such as the Member Assistance Program (MAP) or the Law Office Management Assistance Program (LOMAP). Diversion is not available in cases of serious misconduct or for conduct involving dishonesty, self-dealing, or breach of a fiduciary duty. Participation in diversion is voluntary. If you would like more information about the State Bar's diversion program, you may review the Diversion Guidelines on-line at:

<http://www.azcourts.gov/Portals/22/admorder/Orders10/2010-127.pdf>

If, after reviewing the guidelines, you believe your case may qualify for diversion, please submit a written request with a statement of why you believe diversion is appropriate along with your response.

Thank you for your anticipated cooperation.

Sincerely,

/s/ Hunter F. Perlmeter

Hunter F. Perlmeter
Senior Bar Counsel

/s/ Kelly A. Goldstein

Kelly A. Goldstein
Staff Bar Counsel

KAG/js

Enclosure

SUPREME COURT OF ARIZONA

KARI LAKE,) Arizona Supreme Court
) No. CV-23-0046-PR
Plaintiff/Appellant,)
) Court of Appeals
v.) Division One
) No. 1 CA-CV 22-0779
KATIE HOBBS, et al.,) 1 CA-SA 22-0237
) (Consolidated)
Defendants/Appellees.)
) Maricopa County
-----) Superior Court
KARI LAKE,) No. CV2022-095403
)
Petitioner,)
) **FILED 05/04/2023**
v.)
)
THE HONORABLE PETER THOMPSON,)
JUDGE OF THE SUPERIOR COURT OF)
THE STATE OF ARIZONA, in and for)
the County of Maricopa,)
)
Respondent Judge,)
)
KATIE HOBBS, personally as)
Contestee; ADRIAN FONTES, in his)
official capacity as Secretary)
of State; STEPHEN RICHER, in his)
official capacity as Maricopa)
County Recorder, et al.,)
)
Real Parties in Interest.)
-----)

ORDER

In their responses to Petitioner Lake's Petition for Review, Respondents Secretary of State Fontes and Governor Hobbs moved for sanctions against Lake and her attorneys pursuant to Ariz. R. Civ. App. P. (ARCAP) 25 and A.R.S. § 12-349 (collectively, "Motions for Sanctions"). This Court entered its Order affirming the trial court

and Court of Appeals on most issues, but reversing those courts on their dismissal of the signature verification claim on the basis of laches and remanding that issue to the trial court.

On the issue of whether votes were improperly added by a third-party vendor, we stated that “[t]he record does not reflect that 35,563 unaccounted ballots were added to the total count.” We instructed the parties to “address as a basis for sanctions only Petitioner’s factual claims in her Petition for Review (i.e., that the Court of Appeals should have considered ‘the undisputed fact that 35,563 unaccounted for ballots were added to the total [number] of ballots at a third party processing facility’).” The parties filed briefs on this issue, and Lake filed a Motion for Leave to file a motion for reconsideration of the Court’s denial of review on the chain-of-custody issue.

Candidates are free to timely challenge election procedures and results, and the public has a strong interest in ensuring the integrity of elections. Sometimes campaigns and their attendant hyperbole spill over into legal challenges. But once a contest enters the judicial arena, rules of attorney ethics apply. Although we must ensure that legal sanctions are never wielded against candidates or their attorneys for asserting their legal rights in good faith, we also must diligently enforce the rules of ethics on which public confidence in our judicial system depends and where the truth-seeking function of our adjudicative process is unjustifiably

hindered.

ARCAP 25 authorizes an appellate court to impose sanctions on an attorney if the court determines that an appeal or a motion is frivolous, and provides that “[a]n appellate court may impose sanctions that are appropriate in the circumstances of the case, and to discourage similar conduct in the future.” Other rules similarly require candor in court proceedings. See, e.g., Ariz. R. Civ. P. 11(b) (providing that “[b]y signing a pleading, motion, or other document,” an attorney “certifies that to the best of the person’s knowledge, information, and belief” that “the factual contentions have evidentiary support”); see also Ariz. R. Sup. Ct. 42, Ethical Rule (“ER”) 3.3 (“A lawyer shall not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.”).

Under A.R.S. § 12-349(A), claims are sanctionable if they are brought “without substantial justification.” Further, “without substantial justification” means that the “claim or defense is groundless and is not made in good faith.” § 12-349(F). Groundlessness is “determined objectively,” and a claim is groundless “if the proponent can present no rational argument based upon the evidence or law in support of that claim.” *Takieh v. O’Meara*, 252 Ariz. 51, 61 ¶ 37 (App. 2021), review denied (Apr. 7, 2022) (quoting *Rogone v. Correia*, 236 Ariz. 43, 50 ¶ 22 (App. 2014)).

ARCAP 25 gives an appellate court broad authority to impose sanctions "that are appropriate in the circumstances of the case" on an attorney or a party if it determines that an appeal or motion is frivolous. This includes "contempt, dismissal, or withholding or imposing costs." ARCAP 25.

In her Complaint, Lake set forth colorable claims, including ballot chain-of-custody claims, that were rejected following an evidentiary hearing in the trial court, and she duly but unsuccessfully (except for the laches issue) challenged those rulings on appeal. However, she has repeatedly asserted that it is an "undisputed" fact that 35,563 ballots were added or "injected" at Runbeck, the third-party vendor. Not only is that allegation strongly disputed by the other parties, this Court concluded and expressly stated that the assertion was unsupported by the record, and nothing in Lake's Motion for Leave to file a motion for reconsideration provides reason to revisit that issue. Thus, asserting that the alleged fact is "undisputed" is false; yet Lake continues to make that assertion in her Motion for Leave.

Lake's Petition for Review stated that it was an "undisputed fact that 35,563 unaccounted for ballots were added to the total number of ballots at a third party processing facility." In her Opposition to Motion for Sanctions and Motion for Leave, she repeats this contention, stating that "[t]he record indisputably reflects at least 35,563 Election Day early ballots, for which there is no record

of delivery to Runbeck, were added at Runbeck,” As the Court of Appeals observed, Lake’s argument was focused on one exhibit that included an estimate of the number of early ballot packets based on the number of trays and a different exhibit showing a precise count. Although Lake may have permissibly argued that an inference could be made that some ballots were added, there is no evidence that 35,563 ballots were and, more to the point here, this was certainly disputed by the Respondents. The representation that this was an “undisputed fact” is therefore unequivocally false.¹

Because Lake’s attorney has made false factual statements to the Court, we conclude that the extraordinary remedy of a sanction under ARCAP 25 is appropriate.

The Governor and Secretary seek sanctions for attorney fees and in the Secretary’s reply he seeks additional sanctions. Because Lake prevailed in her argument that the trial court improperly found her signature verification argument barred by laches, an additional sanction is not warranted. Therefore,

IT IS ORDERED denying the Motion for Leave.

¹ See ER 3.3 Comment 2: “This rule sets forth the special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process. A lawyer acting as an advocate in an adjudicative proceeding has an obligation to present the client’s case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate’s duty of candor to the tribunal. Consequently, . . . the lawyer must not mislead the tribunal by false statements of law or fact or evidence that the lawyer knows to be false.”

IT IS FURTHER ORDERED denying the Secretary's Motion to Strike.

IT IS FURTHER ORDERED granting the Motions for Sanctions filed by Governor Hobbs and Secretary Fontes pursuant to ARCAP 25 as to the statement in Lake's Petition for Review asserting "the undisputed fact that 35,563 unaccounted for ballots were added to the total number of ballots," and for repeating such false assertions in an additional filing in this proceeding.

IT IS FURTHER ORDERED counsel for Lake is directed to pay to the Clerk of the Supreme Court the sum of \$2,000.00 as a sanction for this conduct, jointly and severally, such payment to be made not later than ten days from the date of this order. It is further ordered that failure to timely comply with this order may result in a termination of pro hac vice status and other sanctions as appropriate.

IT IS FURTHER ORDERED denying the requests for attorney fees as sanctions.

IT IS FURTHER ORDERED that the trial court shall forthwith conduct such proceedings as appropriate to resolve the unrelated question previously remanded.

IT IS FURTHER ORDERED directing the Clerk of Court to enter the mandate forthwith.

DATED this 4th day of May, 2023.

/s/
ROBERT BRUTINEL
Chief Justice

TO:

Bryan James Blehm
Kurt Olsen
Alexis E Danneman
Abha Khanna
Lalitha D Madduri
Christina Ford
Elena Rodriguez Armenta
Shayna Gabrielle Stuart
Jake Tyler Rapp
Craig A Morgan
Thomas P Liddy
Joseph Eugene La Rue
Joseph Branco
Karen J Hartman-Tellez
Jack O'Connor
Sean M Moore
Rosa Aguilar
Emily M Craiger
Hon Peter A Thompson
Amy M Wood
David T Hardy
Ryan L Heath
Alexander Haberbush
Raymond L Billotte
Hon Joseph C Welty
Hon Jeff Fine,
Hon Danielle J Viola